

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

Irving H. Picard, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities
LLC

Plaintiff

Case Number

vs.

[to be determined]

Citibank, N.A., Citicorp North America, Inc.,
and Citigroup Global Markets Limited

Defendant

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

[see Schedule A]

Plaintiff

Case Number

vs.

[see Schedule A]

[see Schedule A]

Defendant

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

☒

Open

(If so, set forth procedural status and summarize any court rulings.)

The earliest related case in this Court originated from Defendants' motion to withdraw the bankruptcy reference of this adversary proceeding, which Judge Rakoff granted in several respects. Case No. 11-cv-07825 (ECF Nos. 22, 24, 29); see also 12-mc-115 (addressing related cases and cross-referencing 11-cv-07825). Judge Rakoff issued several decisions in this case mandating legal rules to be applied by the Bankruptcy Court. Case No. 11-cv-07825 (ECF Nos. 35, 36, 37, 38). In 2014, Judge Rakoff returned these cases to the Bankruptcy Court, which dismissed this case. The Second Circuit reversed (Case No. 20-1333), and the cases proceeded in the Bankruptcy Court. Beginning on Aug. 1, 2022, defendants in 8 other Madoff adversary proceedings moved for leave to appeal Bankruptcy Court orders; 7 are before Judge Rakoff and 1 is before Judge Woods.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

This case is related to the prior appeal of this exact case, which was decided by Judge Rakoff.

It is related to the prior appeal of this case because: (1) it is a further appeal in the exact same case and (2) part of Defendants' arguments rest on Judge Rakoff's prior determination that, unless the Trustee alleges actual fraudulent intent under 11 U.S.C. § 548(a)(1)(A), the case against Citigroup Global Markets Ltd. must be dismissed in its entirety. 11-cv-7825 (ECF No. 37). The Defendants now argue that the Trustee has not met his pleading burden under the Bankruptcy Code and the case against Citigroup Global Markets Ltd. must be dismissed.

This appeal is also related to the 8 pending adversary proceeding appeals listed in Schedule A, 7 of which are before Judge Rakoff, because the Trustee's allegations as to those defendants mirror in many respects the Trustee's allegations as to Defendants, including especially the Trustee's reliance on the general allegations establishing the existence of a Ponzi scheme to establish an exception to a safe harbor otherwise applicable to defendants. That exception (11 U.S.C. § 548(a)(1)(A)) is the same one at issue in this appeal. Although Judge Rakoff issued a bottom-line order denying the motions for leave to appeal, a written decision is forthcoming.

Judge Rakoff is familiar with the factual allegations of this long-running case, including the parties and property at issue. Judicial economy and efficiency is best served by assigning Judge Rakoff to this appeal.

Signature: /s/ Carmine D. Boccuzzi, Jr.

Date: November 2, 2022

Cleary Gottlieb Steen & Hamilton

Firm:

Schedule A

Banque Cantonale Vaudoise v. Picard, Case No. 22-cv-07189-JSR (S.D.N.Y.) (appeal filed Aug. 23, 2022)

Banque SYZ & Co., SA. v. Picard, Case No. 22-cv-06512-JSR (S.D.N.Y.) (appeal filed Aug. 1, 2022)

Barclays Bank (Suisse) S.A. v. Picard, Caixabank S.A., Zedra Trust Co. (Jersey) Ltd. v. Picard, Case No. 22-cv-07372-JSR (S.D.N.Y.) (appeal filed Aug. 29, 2022)

Bordier & Cie SCmA v. Picard, Case No. 22-cv-07195-JSR (S.D.N.Y.) (appeal filed Aug. 16, 2022)

Citibank, N.A., Citicorp North America, Inc., and Citigroup Global Markets Ltd. v. Picard, Case No. 11-cv-07825-JSR (S.D.N.Y.)

Delta National Bank and Trust v. Picard, Case No. 22-cv-07788-JSR (S.D.N.Y.) (appeal filed Sept. 12, 2022)

Lloyds TSB Bank PLC v. Picard, Case No. 22-cv-07173-JSR (S.D.N.Y.) (appeal filed Aug. 23, 2022)

Multi-Strategy Fund Ltd. v. Picard, Case No. 22-cv-06502 (S.D.N.Y.) (appeal filed Aug. 1, 2022)

The Public Institution for Social Security v. Picard, Case No. 22-cv-08741-GHW (appeal filed Oct. 13, 2022)

Securities Investor Protection Corp. & Picard v. Bernard L. Madoff Investment Securities et al., 12-MC-00115-JSR (S.D.N.Y.)